

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

In re:
Yanaira Polanco

Case No.: 18-43399(ess)
Fee Application

Debtor.

**APPLICATION FOR FINAL ALLOWANCE OF COMPENSATION
AND EXPENSES TO ATTORNEYS FOR DEBTOR UNDER
11 U.S.C. SECTION 330 AND 11 U.S.C. §503(a)**

**TO THE HONORABLE ELIZABETH S. STONG, BANKRUPTCY JUDGE
UNITED STATES BANKRUPTCY COURT E.D.N.Y. :**

The application of LINDA TIRELLI, ESQ. seeking compensation as counsel to the Debtor Yanaira Polanco hereby respectfully represents:

GENERAL BACKGROUND

1. On June 11, 2018, Ms. Yanaira Polanco (hereinafter referred to as the “Debtor”), filed a petition with this Court for relief pursuant to Chapter 13 of the Bankruptcy Code and was assigned case number 18-44339(ess).
2. Your applicant, on behalf of the Debtor, has been responsible for guiding the Debtor’s estate through the Chapter 13 of the Bankruptcy Code.
3. The Debtor sought to file the petition to reorganize her financial situation and resolve issues with non-payment and/or foreclosure of TWO (2) mortgages on her home.
4. The Debtor sought to file the petition to resolve a foreclosure case pending in the state court by the mortgage loan creditor with a first lien on the Debtor’s primary residence and to further resolve a disputed second mortgage lien.
5. Prior to the filing, the Debtor owned the property she uses as her primary residence located at 25-22 96th Street, East Elmhurst, NY 11369 (the “Residence”).

6. At the time of the filing, the Residence was encumbered by 2 mortgage liens serviced by Bayview Loan Servicing (“SLS”) and Real Time Solutions, Inc., respectively, which are listed as “Disputed” on the Debtor’s petition at Schedule D.
7. The undersigned requested participation in the Court’s Loss Mitigation Program in July 2018 to resolve the arrears on first mortgage lien.
8. The undersigned reviewed the proof of claim filed by the second lien holder and discovered the same lacked a proper chain of title. Because the issue was not resolved after contacting the creditor, the undersigned was caused to commence litigation by way of Adversary Proceeding (see AP Case No. 18-01101(ess)).
9. As a result of the undersigned’s efforts, the Debtor’s firstmortgage lien was brought current with a court approved new loan modification agreement.
10. As a further result of the undersigned’s efforts, the second mortgage creditor stipulated to releasing its lien and accepting a pro-rata payout as a general unsecured creditor. This resulted in the elimination of \$139,000.00 of debt.
11. The negotiation efforts of the undersigned saved the estate the cost of further litigation, depositions, discovery, expert witnesses etc.
12. The Debtor is now current on her mortgage and ready for a fresh start.

APPLICATION FOR FEES

13. This application is made by Linda M. Tirelli , Esq. of Tirelli Law Group, LLC, for an allowance of additional compensation for professional services rendered to and on behalf of the Debtor including work associated with issues with claims made by two mortgage claims against the Debtor’s primary residence. Your Applicant was successful in saving the Debtor’s home assisting the Debtor with getting back on a healthy financial track

through a successful loss mitigation process and adversary proceeding during the Chapter 13 bankruptcy.

14. Your applicant has acted as legal counsel to the Debtor and has performed all of the necessary professional legal services in connection therewith. Your Applicant regularly maintains records of time expended in the rendition of such services and the costs and expenses incurred. The entries in such records were made in the ordinary course of Applicant's business, concurrently with the rendition of such services and the incurring of such costs and expenses.

15. A copy of the 2016(b) filed in this case is annexed hereto and made a part hereof as **Exhibit "A"**. A copy of the original retainer agreement with is annexed hereto and made a part hereof as **Exhibit "B"**. A summary of the time and expense records is annexed hereto and made a part hereof as **Exhibit "C"**. A summary Sheet is attached as **Exhibit "D"**.

SUMMARY OF PROFESSIONAL SERVICES RENDERED

INVESTIGATION INTO THE FINANCIAL CONDITION OF THE DEBTOR

16. From the outset of this proceeding, your applicant has been actively involved in an effort to protect the interest of the debtor and their estate and bring about a reasonable recovery for creditors. In the initial phases of this case, your applicant commenced an investigation into the financial condition of the debtor and was called upon to advise the debtor as to the requirements of the Bankruptcy Code and the administration of a Chapter 13 Case.

ADDITIONAL SUPPORTING ARGUMENT

17. Beyond base case preparation of the petition, confirmation hearings, drafting and serving of the chapter 13 plan, all included in the base fee as reflected in the attached billing record, Your applicant has expended 36.2 hours of partner time which is billed at the hourly rate of \$500.00; 0.0 hours of associate time which is billed at the hourly rate of \$350.00 per hour; 26.7 hours of paralegal time which is billed at the hourly rate of \$200.00 per hour in the rendition of its services to the Debtor. The number of hours expended by Your Applicant was kept to a minimum because of the high level of expertise and experience which your applicant brought to this matter. The following is a brief description of the experience and background of your applicant:

LINDA TIRELLI: Attorney Tirelli started practicing in the area of consumer bankruptcy law 24 years ago in the Federal District of Connecticut in 1996. Attorney Tirelli is the recipient of the prestigious 2014 National Annual Award for Distinctive Service by the National Association for Consumer Bankruptcy Attorneys (“NACBA”) for her continued work representing bankruptcy consumers. Attorney Tirelli is also the recipient of the 2014 Women of Distinction Award, the highest possible honor presented by the Rockland Republican Women's Leadership Council. Your Applicant further presents to the Court that she is committed to consumer issues and is a regular go-to attorney whenever the need for a pro-bono counsel in SDNY arises and is resolved to maintain at least 1 pro-bono case in each of the THREE (3) divisions of the SDNY Bankruptcy Courts and in the District of Connecticut, Bridgeport Division. Attorney Tirelli regularly provides services to bankruptcy Debtor, without asking for a single dime up front. Attorney Tirelli’s direct active involvement with various professional

associations (NACBA, ABI, NCLC, NACA, Max Gardner Bankruptcy Boot Camp) including her regular attendance at symposiums and conventions across the country on a near monthly basis including ABI's "Views from the Bench"; NCLC Annual FDCPA Conference; NACA annual conference; NACBA annual spring convention and annual fall workshops; HVBBA "New Deal Seminar" Hyde Park, NY; Peter Barry's FDCPA Boot Camp, St. Paul Minnesota; Max Gardner Bankruptcy Boot Camp and Mini Boot Camps (attending 3x per year) to continue her bankruptcy law and litigation specific education above and beyond any CLE requirements justifies her asking rate. Moreover Attorney Tirelli's work as a consumer bankruptcy litigator is recognized by her peers as evident in that she was invited to speak and participate on discussion panels at UCC Boot Camp at St. John's University; NYC Bar CLE Program; NACBA Annual Spring Convention; and was also a paid panelist at a "Deposition and Evidence Bootcamp" at University of North Carolina at Charlotte and at "UCC Bootcamp" in New York City as well as a paid panelist at several Max Gardner Bankruptcy Boot Camps in Shelby, NC . Attorney Tirelli was a panelist in a CLE for the prestigious New York City Bar Association in October 2013 and was a panelist at the NACBA national convention in Manhattan in April 2014. Attorney Tirelli was a featured panelist on July 10, 2015 at the NCLC conference in Washington, DC where she lectured on the UCC in practical use in the courtroom. Attorney Tirelli will be teaching basic foreclosure / bankruptcy fraud investigation to non-attorneys at the New York State Department of Financial Services on August 6, 2015. Attorney Tirelli is a regular press go-to professional to assist the media with understanding and reporting on consumer issues in state and federal courts having been cited by the Wall Street Journal, New York Times, Washington Post, New York

Post, LA Times, American Banker, Thomas Reuters, Bloomberg News, CNN, MSNBC, CBS News, Democracy Now and Fox Business News. Additionally Ms Tirelli volunteers to teach C.A.R.E. (Credit Abuse Resistance Education) at local high schools and universities. Your applicant's rate of pay in this application is \$500.00 per hour has been approved in fee applications before Your Honor and as was specifically determined to be a fair and reasonable rate for a litigation attorney in the Southern District of New York in prior cases before the Honorable Judge Shelley C. Chapman and awards for fees based on the same rate of pay and higher by other courts throughout E.D.N.Y and S.D.N.Y. including the Hon. Judge Glenn, Hon. Chief Judge Cecelia G Morris, Hon. Judge James Peck, Hon. Robert D. Drain, Hon. Judge Sean Lane, Hon. Nancy Hershey Lord and Hon. Carla Craig.

18. It is common knowledge in the bankruptcy community that attorneys representing debtor's in Chapter 13 cases must work in unusual circumstances with no true guarantee of payment. As is the case in Chapter 11 cases, other than a pre-petition retainer, counsel for Debtor in Chapter 13 cases are not assured of any further payment. Nevertheless, they continue to work to protect their client's interests, knowing that they may never be paid for all of their time. Accordingly, as is done in Chapter 11 cases, applicant urges the Court to make an award of compensation that involve the adjustment of the lodestar amount to reflect certain factors. In the present case, it is respectfully submitted that the delay in payment, the quality of representation, and the results obtained, should be taken into consideration in computing the award of final compensation.

19. Further consideration should be given to the time value of the money had it been paid contemporaneously with the rendition of services. Your Applicant believes that the

allowance sought herein for services rendered and to be rendered is clearly fair and reasonable, particularly in view of the complexity of the case and the issues presented therein.

20. Your applicant's standard time charge as per the signed retainer agreement for the period from June 11, 2018, through today is FIVE HUNDRED AND 00/100 (\$500.00) DOLLARS per hour for partner time; THREE HUNDRED FIFTY AND 00/100 (\$350.00) DOLLARS per hour of associate time and TWO HUNDRED DOLLARS (\$200.00) per hour for paralegal time.

21. Utilizing these standard time charges 36.2 hours of partner time at \$500.00 per hour (\$18,100.00); 0.0 hours of associate time at \$350.00 per hour (\$0.00); 26.7 hours of paralegal time at \$200.00 per hour (\$5389.50), all totaling the sum of **\$23,489.50**.

22. Expenses for postage and the like total a sum of **\$147.66**, for a cumulative total for fees plus expenses of **\$23,637.16**.

23. Consistent with the B2030form / statement filed with the court, Your Applicant is further owed no balance for the base fee.

25. No previous allowance has been made to your applicant for the services rendered beyond the base Chapter 13 fee as hereinafter set forth and no previous application has been made therefor to this Court, or any other court, for compensation pertaining to the services provided as described in the attached invoice. Your Applicant has not, in any form or guise, shared or agreed to share compensation to be received by it or any other person for services rendered in connection with this matter. No agreement or understanding prohibited by 18 U.S.C. §155 has been made by your applicant.

WHEREFORE, your applicant respectfully requests that the Court enter an

Order under 11 U.S.C. Sections 330 and 503 allowing final compensation in the amount of **\$23,489.50** plus **\$147.66** for expenses for a total sum of **\$23,637.16** and for such other and further relief as to the Court may seem just and proper.

Dated: White Plains, New York
December 2, 2020

By: /s/ Linda M. Tirelli

Linda M. Tirelli, Esq.
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**IN THE UNITED STATES BANKRUPTCY COURT
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In re:
Yanaira Polanco

Debtor.

Case No.: 18-43399(ess)
FEE APPLICATION
CERTIFICATION

CERTIFICATION

1. I, Linda M. Tirelli, hereby certify that I am the professional designated by the applicant with the responsibility in this case for compliance with the guidelines for fees and disbursements for professionals in Eastern District of New York bankruptcy cases.
2. I have read the application and to the best of my knowledge, information and belief formed after reasonable inquiry; the application complies with the mandatory guidelines.
3. To the best of my knowledge, information and belief formed after reasonable inquiry, the fees and expenses sought and fall within these guidelines.
4. The fees and expenses sought are billed at rates and in accordance with practices customarily employed by the applicant and generally accepted by applicant's clients.
5. A copy of this application has been served upon the Chapter 13 Trustee, Marianne Derosa, Esq., the U.S. Trustee and the Debtor Yanaira Polanco. At the present time, I have no personal knowledge as to whether the Chapter 13 Trustee has approved the application.

6. The Debtor, Chapter 13 Trustee and US Trustee were served with the application
on December 2, 2020

Dated: White Plains, New York
December 2, 2020

By: /s/ Linda M. Tirelli
Linda M. Tirelli, Esq.
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

**In re:
Yanaira Polanco
APPLICATION**

**Case No.: 18-41966(nhl)
FEE**

Debtor. ORDER

**PROPOSED ORDER GRANTING APPLICATION FOR ALLOWANCE OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Upon consideration of the Application for Allowance of Final Compensation and Reimbursement of Expenses (the “Application”), under 11 U.S.C. § 330, of Linda Tirelli, Esq. for professional services rendered and expenses incurred as counsel to the debtor herein from June 11, 2018 through December 2, 2020; and there being no opposition to the requested relief; and upon the record of the hearing held by the Court on the Application on _____; and due notice of the Application having been given pursuant to Federal Rules of Bankruptcy Procedure 2002(a)(7) and (c)(2); and sufficient cause having been shown for the relief granted herein; and the applicant having submitted the proposed order to the Court on _____, it is hereby

ORDERED, that the Application is granted and Linda Tirelli, Esq. is allowed final fees and expenses herein pursuant to 11 U.S.C. § 330 in accordance with Schedule “A” attached hereto.

Dated: New York, New York

_____, 2020

Hon. Elizabeth S. Stong, Bankruptcy Judge
United States Bankruptcy Court, EDNY